

PM 1.14/2: let. 810-2

Office of Personnel Management

FPM Letter 810-2

Federal Personnel Manual System

FPM Letter 810-2

SUBJECT: Charging Continuation of Pay (COP) for Light Duty
Assignment in Cases of Compensable Traumatic Injury

RETAIN UNTIL SUPERSEDED

Washington, D. C. 20415
November 3, 1983

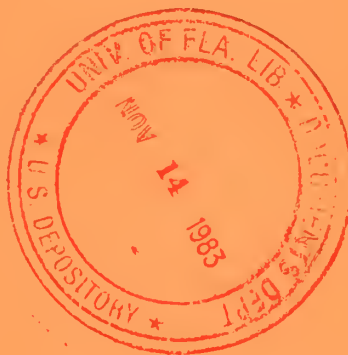
Heads of Departments and Independent Establishments:

1. The Department of Labor has requested that the attached policy guidance on charging continuation of pay (COP) for light duty assignment be transmitted through the Federal Personnel Manual issuance system. The policies described are related to FPM Chapter 810, Injury Compensation, and should be adopted in conjunction with the instructions in that chapter. We have reviewed the text to insure that Department of Labor has used accurate Federal personnel system terminology.



Donald J. Devine
Director

Attachments



Inquiries: Section of Technical Assistance, OWCP, DOL, (202) 523-8453
Section of Regulations and Procedures, OWCP, DOL (202) 523-8463

Code: 810, Injury Compensation

Distribution: FPM

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Washington, D C. 20210



Subject: Charging Continuation of Pay (COP) for Light Duty Assignment
in Cases of Compensable Traumatic Injury

A memorandum dated May 4, 1983, to heads of all Federal agencies from the Director of the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, established that Continuation of Pay (COP) as provided under the Federal Employees' Compensation Act (FECA) at 5 U.S.C. 8118 is to be charged when an employee works at a light duty assignment due to work limitations imposed by the injury (attachment). This provides OWCP's further definition of the policy expressed in the May 4, 1983, memorandum, and should be read and applied in connection with it.

Upon legal analysis of the FECA and its regulations, OWCP has determined that COP is chargeable only when there has been a formal assignment to an established job which is normally paid at a lower salary and would otherwise result in loss of income to the employee. COP must be charged against the employee's 45-day entitlement when, due to the effects of the injury upon the employee:

- a personnel action has been taken to assign or detail the employee to an identified position for which a position description exists which is classified at a lower salary level than that earned by the employee when injured.
- a personnel action has been taken to change the employee to a lower grade, or to a lower rate of basic pay.
- a personnel action has been taken to change the employee to a different schedule of work which results in loss of salary or premium pay (e.g., Sunday pay or night differential) authorized for the employee's normal administrative workweek.

The employee must be furnished with documentation of the personnel action prior to the effective date of the action.

OWCP has determined that if the employee performs work of a limited or light duty nature in the absence of documentation of a personnel action as described above, COP will not be chargeable. Therefore, OWCP must be provided with a copy of the personnel action on Form SF 50 or equivalent and a copy of the position description for the light duty job, in addition to documentation that the employee was found unfit for his or her regular job.

Return to work on a light duty reassignment or detail is to be reported to OWCP on Form CA-3, with the new assignment or detail reflected at items 10 through 14 and 18 through 21. If the employee worked at a lower paying job but received the full pay for his or her normal job, the difference between the employee's pay and the pay for the light duty job will be shown at item 19 of Form CA-3 as the gross dollar amount of COP. Item 19 should be altered by the completing official to make it clear that the amount shown is the difference between the pay for the employee's normal job and the pay for the light duty job during the period reported.

Inquiries should be directed to Section of Technical Assistance, OWCP, (202) 523-8453 or Section of Regulations and Procedures, OWCP, (202) 523-8463.

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Washington, D.C. 20210



MAY - 4 1983

MEMORANDUM TO: HEADS OF FEDERAL AGENCIES

FROM : WILLIAM C. JACOBS *W.C. Jacobs*
Director, Office of
Workers' Compensation Programs

SUBJECT : Counting Continuation of Pay (COP)
Days when an Employee is in a
Light Duty Status

The Federal Employees' Compensation Act (FECA) provides 45 days continuation of regular pay for an employee who sustains a work-related traumatic injury. Procedures for implementing this section of the FECA are outlined at 20 CFR 10.200 through 10.210, and in Subchapter 3-2 of Chapter 810 of the Federal Personnel Manual.

In the past, when an injured employee was found to be eligible to receive Continuation of Pay (COP), the only days counted against the 45 day period were those days on which the employee was actually absent from the workplace because of the injury. Any such absence, for all or for a portion of the workday, while disabled or while seeking treatment, is counted as a day of COP.

In cooperation with this Office's efforts to return injured employees to duty as soon as possible, many agencies have gone to great lengths to provide disabled employees with lighter duty jobs which they can perform, or to modify the duties of the employee's own job to comply with the restrictions imposed by the injuries. Often the employee receives full pay although performing only a partial range of duties. In these situations, the injured employee is disabled in that he or she is incapable of performing the regular job and the day, in effect, is a day of disability for which the employee is paid in full although unable to perform as usual. It has therefore been determined that a day, or portion of a day, spent by an injured employee in a light duty job within the first 45 days of disability following an injury shall be counted as one day of COP. This would also include any day during which the employee's regular job was specifically altered to accommodate injury-related work restrictions imposed by a physician.

- 2 -

20 CFR 10.109(c) provides that "A Duty Status Report, Form CA-17, will be used to obtain interim medical reports concerning the employee's duty status. If, during the 45 day period, the treating physician indicates the employee is able to return to work and the employee refuses to do so, the continued absence from work may result in an overpayment." The employing agency should submit the medical evidence of ability to work (CA-17) to OWCP and an explicit statement of the light duty job which was offered to the employee, along with its physical requirements and documentary evidence of the offer, as evidence that entitlement to continued pay may be terminated under this section.

Similarly, if the employee returns to light duty with charge against the 45 day period, the employing agency must provide documentation to OWCP that the employee was found unfit for regular duty by the attending physician, and that the employee was placed in a light duty job, or that the employee's regular job was modified as a result of the injury. Such duties, or such modification, should be described in writing.

Agency heads should ensure that all personnel involved in the claims process are advised of this new procedure. Chapter 810 of the Federal Personnel Manual will be revised at the earliest possible opportunity.

UNIVERSITY OF FLORIDA



3 1262 08741 8439